

## PATENT COOPERATION TREATY

## PCT

REC'D 06 MAY 2005

WIPO

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 3288-011/POA	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416
International application No. PCT/US04/09368	International filing date (day/month/year) 26 March 2004 (26.03.2004)	Priority date (day/month/year) 27 March 2003 (27.03.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): E05F 11/38 and US Cl.: 49/375			
Applicant FENELON, PAUL J.			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (sent to the applicant and to the International Bureau) a total of \_\_\_ sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report

☐ Box No. II Priority

☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

☒ Box No. IV Lack of unity of invention

☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐ Box No. VI Certain documents cited

☐ Box No. VII Certain defects in the international application

☐ Box No. VIII Certain observations on the international application

Date of submission of the demand

29 September 2004 (29.09.2004)

Date of completion of this report

05 April 2005 (05.04.2005)

Name and mailing address of the IPEA/ US  
Mail Stop PCT, Attn: IPEA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
Facsimile No. (703) 305-3230

Authorized officer

Gregory J. Strimbu

Telephone No. 571-272-6836

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/09368

## Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))  
☐ publication of the international application (under Rule 12.4)  
☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☒ the international application as originally filed/furnished

☒ the description:

pages 1-30 as originally filed/furnished

pages\* NONE received by this Authority on \_\_\_\_\_

pages\* NONE received by this Authority on \_\_\_\_\_

☒ the claims:

pages 31-43 as originally filed/furnished

pages\* NONE as amended (together with any statement) under Article 19

pages\* NONE received by this Authority on \_\_\_\_\_

pages\* NONE received by this Authority on \_\_\_\_\_

☒ the drawings:

pages 1-26 as originally filed/furnished

pages\* NONE received by this Authority on \_\_\_\_\_

pages\* NONE received by this Authority on \_\_\_\_\_

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_  
☐ the claims, Nos. \_\_\_\_\_  
☐ the drawings, sheets/figs \_\_\_\_\_  
☐ the sequence listing (*specify*): \_\_\_\_\_  
☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_  
☐ the claims, Nos. \_\_\_\_\_  
☐ the drawings, sheets/figs \_\_\_\_\_  
☐ the sequence listing (*specify*): \_\_\_\_\_  
☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/09368

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☒ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:

- ☐ complied with.
- ☒ not complied with for the following reasons:

See the lack of unity section of the International Search Report(Form PCT/ISA/210)

4. Consequently, this report has been established in respect of the following parts of the international application:

- ☐ all parts
- ☒ the parts relating to claims Nos. 1-15 and 40-44

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.  
PCT/US04/09368

**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims <u>3-5 and 12-15</u>	YES
	Claims <u>1, 2, 6-11 and 40-44</u>	NO
Inventive Step (IS)	Claims <u>12</u>	YES
	Claims <u>1-11, 13-15 and 40-44</u>	NO
Industrial Applicability (IA)	Claims <u>1-15 and 40-44</u>	YES
	Claims <u>NONE</u>	NO

**2. Citations and Explanations (Rule 70.7)**  
Please See Continuation Sheet

## Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

**V. 2. Citations and Explanations:**

Claims 1, 2 and 8 lack novelty under PCT Article 33(2) as being anticipated by Podolan. Podolan discloses a closure assembly comprising a closure member 14, a window bracket 114 coupled to the closure member, the window bracket including a channel 134 for receiving the closure member therein, and a pair of generally concave metal plates 118 and 138 disposed on opposite sides of the window bracket and including a clamping mechanism 116 engaging each of the pair of metal plates for drawing the metal plates toward one another.

Claims 1, 2, 6 and 7 lack novelty under PCT Article 33(2) as being anticipated by Wirsing. Wirsing discloses a closure assembly comprising a closure member 4, a window bracket (not specifically numbered, but shown in figure 2) coupled to the closure member, the window bracket including a channel (not numbered, but shown in figure 2 at the bottom of the closure member 4) for receiving the closure member therein, and a pair of generally concave metal plates 30 and 72 disposed on opposite sides of the window bracket and including a clamping mechanism 90 engaging each of the pair of metal plates for drawing the metal plates toward one another.

Claims 9-11 lack novelty under PCT Article 33(2) as being anticipated by Ramus. Ramus discloses a closure assembly comprising a closure member 12, 18, a window bracket 20 coupled to the closure member, the window bracket including a channel 32 for receiving the closure member therein, and a wedge mechanism 44 received in the channel for securing the closure member in the channel, the wedge mechanism is spring biased into the channel by the inwardly angled wall 36.

Claims 40-44 lack novelty under PCT Article 33(2) as being anticipated by Bertolini. Bertolini discloses a closure assembly comprising a closure member 6, a first support 7 coupled to the closure member, a second support 8 coupled to the first support and adapted to be driven of the raising and lowering of the closure member, and an interface (not numbered, but shown in figure 4) between the first and second supports adapted to accommodate both axial and pivotal movement of the closure member with respect to the second support, the first support having a slot (not numbered, but shown in figure 2).

Claims 1 and 3-5 lack an inventive step under PCT Article 33(3) as being obvious over Bertolini in view of Wasek et al. Bertolini discloses a closure assembly comprising a closure member 6, a window bracket 7 coupled to the closure member, the window bracket including a channel 9 for receiving the closure member therein, a support member 8, a head portion 12, a guide portion (not numbered, but shown in figure 2). Bertolini is silent concerning concave metal plates and a clamping mechanism.

However, Wasek et al., in figure 4, discloses a closure assembly comprising a pair of generally concave metal plates 36 and 40 disposed on opposite sides of the window bracket and including a clamping mechanism 32 engaging each of the pair of metal plates for drawing the metal plates toward one another.

Claims 9 and 13-15 lack an inventive step under PCT Article 33(3) as being obvious over Bertolini et al. in view of Ramus. Bertolini et

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.  
PCT/US04/09368

**Supplemental Box**

al. discloses a closure assembly comprising a closure member 6, window bracket 7 coupled to the closure member, the window bracket including a channel 9 for receiving the closure member therein, a support member 8 coupled to the window bracket and adapted to be driven of the raising and lowering of the closure member, and an interface (not numbered, but shown in figure 4) between the window bracket and the support member permitting axial and pivotal movement of the closure member with respect to the support member, the first support having a slot (not numbered, but shown in figure 2).

Claim 12 meets the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the wedge mechanism including an elastomeric wedge member pivotally supported by an over-center toggle spring mechanism pivotally mounted to the window bracket.

----- NEW CITATIONS -----